



DECLARATION FOR PATENT APPLICATION

As the below-named inventors, we hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled ANTI-INFLAMMATORY PHARMACEUTICAL COMPOSITIONS FOR REDUCING INFLAMMATION AND THE TREATMENT OR PREVENTION OF GASTRIC TOXICITY, the specification of which

_____ is attached hereto as Attorney Client-Matter No. _____).

X was filed on February 4, 2004, as Application Serial No. 10/774,048
(Attorney Client-Matter No. 68911-062)

and was amended on (or amended through) _____.
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to myself to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

Under Sec. 1.56, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or (2) It refutes, or is inconsistent with, a position the applicant takes in: (a) Opposing an argument of unpatentability relied on by the U.S. Patent and Trademark Office, or (b) Asserting an argument of patentability.

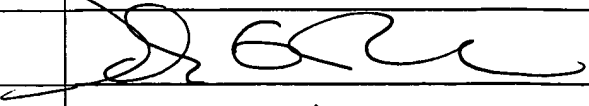
I hereby claim the benefit under Title 35, United States Code, § 119(e) of the United States provisional application(s) listed below and claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of these application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 2

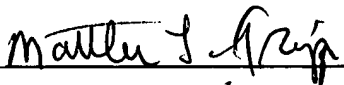
Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

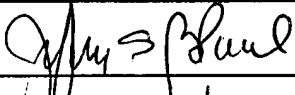
Application Serial No.	Filing Date	Status
60/472,460	May 22, 2003	Pending
10/689,856	October 20, 2003	Pending
10/464,410	June 18, 2003	Pending
10/464,834	June 18, 2003	Pending
10/400,293	March 26, 2003	Abandoned
10/401,283	March 26, 2003	Abandoned
60/450,237	February 25, 2003	Abandoned
60/420,383	October 21, 2002	Abandoned
09/885,721	June 20, 2001	Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor:	John G. Babish
Inventor's signature:	
Date:	5-7-04
Residence:	Brooktondale, New York
Citizenship:	United States of America
Mailing Address:	508 White Church Road Brooktondale, New York 14817

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 3

Full name of second inventor:	Matthew L. Tripp
Inventor's signature:	
Date:	4/30/04
Residence:	Gig Harbor, Washington
Citizenship:	United States of America
Mailing Address:	4202 71st Avenue Court NW Gig Harbor, Washington, 98335

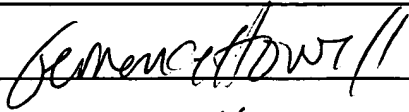
Full name of third inventor:	Jeffrey S. Bland
Inventor's signature:	
Date:	5/3/04
Residence:	Fox Island, Washington
Citizenship:	United States of America
Mailing Address:	957 11th Lane Fox Island, Washington 98333

Full name of fourth inventor:	Terrence Howell
Inventor's signature:	
Date:	
Residence:	Lansing, New York
Citizenship:	United States of America
Mailing Address:	36 Lake Shore Road Lansing, New York 14882

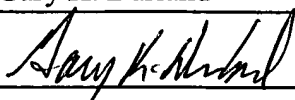
Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 3

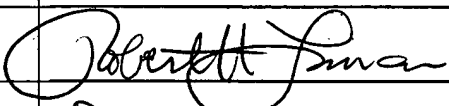
Full name of second inventor:	Matthew L. Tripp
Inventor's signature:	
Date:	
Residence:	Gig Harbor, Washington
Citizenship:	United States of America
Mailing Address:	4202 71st Avenue Court NW Gig Harbor, Washington, 98335

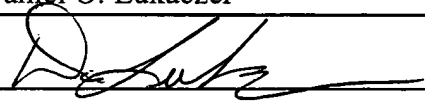
Full name of third inventor:	Jeffrey S. Bland
Inventor's signature:	
Date:	
Residence:	Fox Island, Washington
Citizenship:	United States of America
Mailing Address:	957 11th Lane Fox Island, Washington 98333

Full name of fourth inventor:	Terrence Howell
Inventor's signature:	
Date:	05 May 04
Residence:	Lansing, New York
Citizenship:	United States of America
Mailing Address:	36 Lake Shore Road Lansing, New York 14882

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 4

Full name of fifth inventor:	Gary K. Darland
Inventor's signature:	
Date:	30 Apr 04
Residence:	Gig Harbor, Washington
Citizenship:	United States of America
Mailing Address:	1718 Clorindi Circle NW Gig Harbor, Washington 98335

Full name of sixth inventor:	Robert H. Lerman
Inventor's signature:	
Date:	May 3, 2004
Residence:	Gig Harbor, Washington
Citizenship:	United States of America
Mailing Address:	6918 Cascade Avenue Gig Harbor, Washington 98335

Full name of eighth inventor:	Daniel O. Lukaczer
Inventor's signature:	
Date:	4/30/04
Residence:	Gig Harbor, Washington
Citizenship:	United States of America
Mailing Address:	5820 98th Avenue NW Gig Harbor, Washington 98335



PATENT

Client-Matter No.: 68911-062

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
Babish et al.)

Serial No.: 10/774,048)

Filing Date: February 4, 2004)

For: ANTI-INFLAMMATORY)
PHARMACEUTICAL COMPOSITIONS FOR)
REDUCING INFLAMMATION AND THE)
TREATMENT OR PREVENTION OF GASTRIC)
TOXICITY)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

SMALL ENTITY STATEMENT

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

(1) Individual person:

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

(2) Small business concern:

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

“Business concern” means individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative. If the concern is a joint venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The "number of employees" is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months. "Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

(3) Nonprofit organization:

A university or other institution of higher education located in any country. § 1.27(a)(3) (ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B),(D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C),(D).

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include, but are not limited to, an inventor him- or herself or an authorized officer of an assignee or licensee. See § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 3

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. The other party having rights in the invention is **METAPROTEOMICS, LLC**. Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

I understand that Small Entity Status must be newly determined when the issue fee and each maintenance fee is due. If there is any change resulting in loss of entitlement to Small Entity Status, I acknowledge the duty to file a notification to the USPTO in this application or patent before or upon paying the fee. § 1.27(g).

I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).

I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

April 14, 2004
Date

Name: Susan J. Campbell
Title: General Counsel
Susan Campbell, Esq.
General Counsel
METAGENICS, INC.
100 Avenida La Pata
San Clemente, California 92673



POWER OF ATTORNEY FOR PATENT APPLICATION BY ASSIGNEE

Assignee **METAPROTEOMICS LLC** is the owner of the entire right, title and interest of U.S. Patent Application Serial No. 10/774,048, filed on February 4, 2004, as attorney docket number 68911-062 and entitled ANTI-INFLAMMATORY PHARMACEUTICAL COMPOSITIONS FOR REDUCING INFLAMMATION AND THE TREATMENT OR PREVENTION OF GASTRIC TOXICITY,

and any subsequently filed divisional, continuation, or reissue application, including international and foreign applications claiming priority thereto.

The Assignee hereby appoints the following attorneys to prosecute these applications and to transact all related business in the United States Patent and Trademark Office and any international and foreign patent offices:

CATHRYN CAMPBELL, Registration No. 31,815; DAVID A. GAY, Registration No. 39,200; ANDREA L. GASHLER, Registration No. 41,029; DEBORAH L. CADENA, Registration No. 44,048; and ASTRID R. SPAIN, Registration No. 47,956.

Please direct all telephone calls to Cathryn Campbell at (858) 535-9001 and address all correspondence to:

CATHRYN CAMPBELL
McDERMOTT, WILL & EMERY
4370 La Jolla Village Drive
Suite 700
San Diego, California 92122

The undersigned is authorized to sign on behalf of the Assignee.

Signature:	<u>Susan Y. Campbell</u>
Name (typed):	<u>Susan Y. Campbell</u>
Title:	<u>General Counsel</u>
Assignee:	<u>MetaProteomics, LLC</u>
Date:	<u>April 14, 2004</u>



STATEMENT UNDER 37 C.F.R. § 3.73(b)

Title of Application: ANTI-INFLAMMATORY PHARMACEUTICAL
COMPOSITIONS FOR REDUCING INFLAMMATION
AND THE TREATMENT OR PREVENTION OF
GASTRIC TOXICITY

Application Ser. No.: 10/774,048

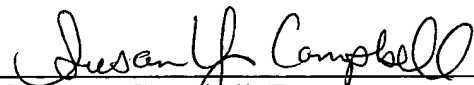
Filed: February 4, 2004

Inventor(s): Babish et al.

Attorney Client-Matter No.: 68911- 062

METAPROTEOMICS, a Corporation, states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventor of the application. A copy of the executed assignment is attached hereto as documentary evidence of the chain of title to the assignee.

The undersigned is empowered to sign this statement on behalf of the assignee.

Date: April 14, 2004 Signature: 

Name: Susan Y. Campbell, Esq.

Title: General Counsel

ASSIGNMENT

COPY

This Assignment is made by John G. Babish of Brooktondale, New York, Matthew L. Tripp of Gig Harbor, Washington, Jeffrey S. Bland of Fox Island, Washington, Terrence Howell of Lansing, New York, Gary K. Darland of Gig Harbor, Washington, Robert H. Lerman of Gig Harbor, Washington, and Daniel O. Lukaczer of Gig Harbor, Washington, Assignors, to METAPROTEOMICS, LLC, Assignee, having a place of business at 100 Avenida La Pata, San Clemente, California 92673.

WHEREAS, Assignors have invented a new and useful ANTI-INFLAMMATORY PHARMACEUTICAL COMPOSITIONS FOR REDUCING INFLAMMATION AND THE TREATMENT OR PREVENTION OF GASTRIC TOXICITY for which an application for United States Letters Patent was filed on February 4, 2004, in the United States Patent and Trademark Office, bearing Serial No. 10/774,048, and identified as Attorney Client-Matter No: 68911-062;

WHEREAS, Assignors believe themselves to be the original inventors of the invention disclosed and claimed in said application for Letters Patent; and

WHEREAS, the parties desire to have a recordable instrument assigning the entire right, title and interest in and to said invention, said application and any Letters Patent that may be granted for said invention in the United States and throughout the world;

NOW, THEREFORE, in accordance with the obligations to assign the invention and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors sell, assign, and transfer to Assignee, the entire right, title, and interest in and to said invention, said application, any applications entitled to benefit of priority to said application under Title 35, United States Code, Sections 120, 121 or 251, which include divisionals, continuations and reissues, and any Letters Patent that may be granted on said invention or these applications in the United States and throughout the world, including the right to file foreign applications directly in the name of the Assignee and to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties, or otherwise.

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 2

Assignors agree that, upon request and without further compensation, but at no expense to Assignors, they and their legal representatives and assigns will do all lawful acts, including the execution of papers and the giving of testimony, that may be necessary or desirable for obtaining, sustaining, reissuing, or enforcing Letters Patent in the United States and throughout the world for said invention, and for perfecting, recording, or maintaining the title of Assignee, its successors and assigns, to said invention, said application, and any Letters Patent granted for said invention in the United States and throughout the world.

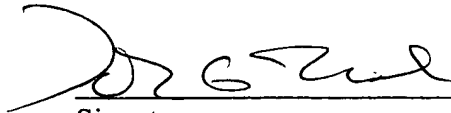
Assignors represent and warrant that they have not granted and will not grant to others any rights inconsistent with the rights granted herein.

Assignors authorize and request that any United States or foreign Letters Patent granted for said invention, whether on said application or on any subsequently filed divisional, continuation or reissue application, be issued to Assignee, its successors and assigns, as the assignee of the entire interest in said invention.

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 3

IN WITNESS WHEREOF, Assignors have executed this Assignment on the date(s)
provided below.

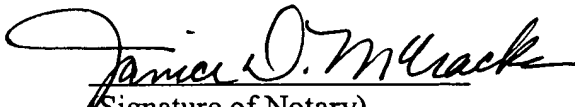
Assignor: John G. Babish

 5-7-04
Signature Date

STATE OF New York
COUNTY OF Tompkins

On 5/7/04, before me, Janice McCracken personally appeared
John Babish, ☒ personally known to me - OR - ☐ proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.


(Signature of Notary)

JANICE D. McCracken
Notary Public, State of New York
No. 4970806
Qualified in Chemung County
Commission Expires 8/20/06

Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 4

Assignor: Matthew L. Tripp

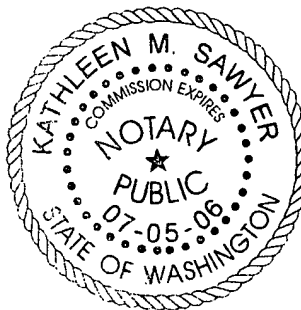
Matthew L. Tripp 4/30/04
Signature Date

STATE OF Washington
COUNTY OF Pierce

On 4/30/04, before me, Kathleen M. Sawyer personally appeared
Matthew L. Tripp ✓ personally known to me - OR - ___ proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

Kathleen M. Sawyer
(Signature of Notary)



Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 5

Assignor: Jeffrey S. Bland

Jeffrey S. Bland
Signature

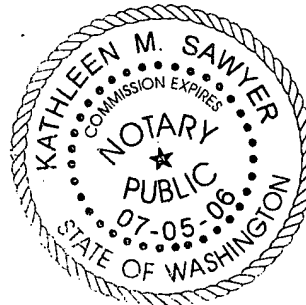
5/3/04
Date

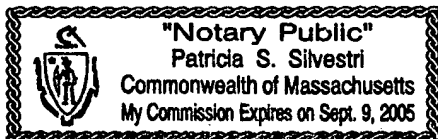
STATE OF WASHINGTON
COUNTY OF PERCE

On 05/03/04, before me, Kathleen M. Sawyer personally appeared
Jeffrey Bland, ☒ personally known to me - OR - ☐ proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his her/their
authorized capacity(ies), and that by his her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

Kathleen M. Sawyer
(Signature of Notary)





Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 7

Assignor: Gary K. Darland

Gary K. Darland
Signature

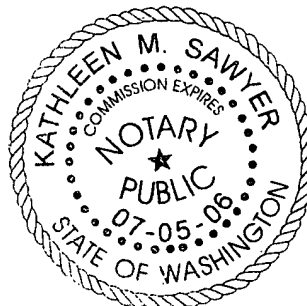
30 Apr 04
Date

STATE OF Washington
COUNTY OF PIERCE

On 4/30/04, before me, Kathleen M. Sawyer personally appeared
GARY DARLAND, ☒ personally known to me - OR - ☐ proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

Kathleen M. Sawyer
(Signature of Notary)



Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 8

Assignor: Robert H. Lerman

Robert H. Lerman May 3, 2004
Signature Date

STATE OF Washington
COUNTY OF PIERCE

On 5/3/04, before me, Kathleen M. Sawyer personally appeared
Robert Lerman, ☒ personally known to me - OR - ☐ proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

Kathleen M. Sawyer
(Signature of Notary)



Inventors: Babish et al.
Serial No.: 10/774,048
Filed: February 4, 2004
Page 9

Assignor: Daniel O. Lukaczer

D. Lukaczer 4/30/04
Signature Date

STATE OF Washington
COUNTY OF PIERCE

On 4/30/04, before me, Kathleen M. Sawyer personally appeared
Daniel Lukaczer ✓ personally known to me - OR - ____ proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

Kathleen M. Sawyer
(Signature of Notary)

